

**Basis Statement and Response to Comments  
State of Maine  
06-096 C.M.R. Chapter 168:  
Statewide Greenhouse Gas Emissions Regulation**

**October 21, 2021**

The proposed rule translates the statewide percentage reduction requirements as established in statute into tonnage reductions based on million metric tons of carbon dioxide equivalents (MMT<sub>CO2e</sub>) for gross greenhouse gas emissions as calculated pursuant to the Department’s rule, 06-096 C.M.R. Ch. 167. Statutory requirements for greenhouse gas emission reductions were established in 38 M.R.S. Section 576-A. By January 1, 2030, statewide annual greenhouse gas emissions must be reduced to a level at least 45% below the 1990 gross annual greenhouse gas emissions (or baseline) level, with emissions being reduced at least 80% below the 1990 baseline level by January 1, 2050. These percentages translate to 14.41 MMT<sub>CO2e</sub> for 2030 and 26.62 MMT<sub>CO2e</sub> for 2050.

The Department posted the draft rule to a 30-day public comment period, which ended on September 17, 2021. The Department received two written comments on the proposal from five interested parties during the public comment period and has provided its responses below.

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Commenters

1) Steven A. Hudson  
Council to the Industrial Energy Consumer Group

2) [Joint comments by multiple authors]  
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The Nature Conservancy in Maine  
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## Summary of Comments

**1) Comment:** Both comment submissions voiced support of the reduction goals and translation of reduction goals to tonnage reductions. (Commenters 1 & 2)

**Response:** The Department appreciates the support of these reduction goals. No changes to the proposed rule were made in response to this comment.

**2) Comment:** One commenter highlighted that Maine's industrial sector has made significant strides in reducing its sector's greenhouse gas emissions since 1990. (Commenter 1)

**Response:** The Department agrees that the industrial sector has made progress in reducing greenhouse gas emissions. As reported in the Eighth Biennial Report on Progress toward Greenhouse Gas Reduction Goals (January 13, 2020), as of 2017, the industrial sector CO<sub>2</sub> emissions from the combustion of fossil fuels had decreased 58% since 1990. No changes to the proposed rule were made in response to this comment.

**3) Comment:** One commenter requested clarifying language in the proposed rule to explain how the rule will affect any individual agency action or proceeding prior to specific rule adoption. (Commenter 1)

**Response:** The proposed rule translates statutory greenhouse gas percentage reduction requirements into tonnage reductions based on MMTCO<sub>2e</sub>. In future rulemaking, the Department may use these tonnage reductions to establish a basis for quantified emission reduction requirements that can be used in the development of cost-effective emission reduction strategies. Since the proposal does not establish sector-specific goals (see Comment #4, below), the Department will use the tonnage reductions to assess the State's progress towards meeting the statutory greenhouse gas percentage reduction requirements. The proposed rule will help guide both regulatory and non-regulatory greenhouse gas mitigation programs. No changes to the proposed rule were made in response to this comment.

**4) Comment:** One commenter suggested sector-specific greenhouse gas reduction goals. (Commenter 2)

**Response:** The proposed Chapter 168 reduction goals are consistent with the statutory requirements. 38 M.R.S. Section 576-A specifies statewide gross greenhouse gas emission reduction goals which include all statewide emissions. Although the statute states that future rulemaking should prioritize greenhouse gas emission reductions by sector, it does not require specific reduction goals by sector. Furthermore, although the source categories of energy and industrial processes can be attributed to sectors, not all greenhouse gas emissions fall into one of the five primary sectors (transportation, residential, commercial, industrial, and electric power). For example, the source categories of agriculture and waste are not included in any of these five sectors. Greenhouse gas emissions as a whole, by sector, and by source category will continue to be reported in the Department's biennial reports to the Legislature on progress toward greenhouse gas reduction goals for full transparency. This breakdown data will continue to inform future strategies and policies focused on meeting Maine's greenhouse gas reduction goals. No changes to the proposed rule were made in response to this comment.

**5) Comment:** One commenter noted that emissions due to methane leaks from natural gas distribution and transmission infrastructure are not currently included in the gross estimates. (Commenter 2)

**Response:** The natural gas infrastructure in Maine is relatively new, so leaks from the system are not as prevalent as they are in other areas of the country. Nevertheless, the Department recognizes that these

leaks do occur. The Department's use of the EPA State Inventory Tool (SIT) detailed in Chapter 167 includes a way to estimate greenhouse gas emissions from natural gas distribution infrastructure/systems; however, there is no default data available in the SIT for Maine. In the past, given the expected minor emissions from leaks from natural gas infrastructure, the Department has not prioritized resources to investigate possible sources of data for entry into this module. As provided in Chapter 167, the Department will use this model in the next greenhouse gas inventory (to be reported in December 2021) and is making efforts to locate accurate data for Maine's natural gas distribution network to use in these estimates. The Department will update Chapter 167 every two years, accounting for any new tools that may become available and improvements to the methodology. No changes to the proposed rule were made in response to this comment.

**6) Comment:** One commenter requested interim greenhouse gas emissions reduction targets. (Commenter 2)

**Response:** The proposed Chapter 168 reduction goals are consistent with the statutory requirements. 38 M.R.S. Section 576-A specifies statewide gross greenhouse gas emission reduction goals for 2030 and 2050 only and does not quantify the interim trajectory. The statute requires a 2040 interim "annual trajectory sufficient to achieve the 2050 annual emissions level." In keeping with the statute, this rule does not quantify a specific reduction target between 2030 and 2050. No changes to the proposed rule were made in response to this comment.

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